

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

LOUIS P. SKUFCA, JR. v. STATE OF TENNESSEE, KEVIN MYERS, WARDEN

Direct Appeal from the Circuit Court for Wayne County
No. 13345 Jim T. Hamilton, Judge

No. M2004-00954-CCA-R3-HC - Filed October 18, 2004

Petitioner, Louis P. Skufca, Jr., appeals from the trial court's summary dismissal of his petition for writ of habeas corpus, without an evidentiary hearing. The State has filed a motion pursuant to Rule 20, Rules of the Court of Criminal Appeals of Tennessee, for this Court to affirm the judgment of the trial court by memorandum opinion. We grant the motion and affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court
Affirmed Pursuant to Rule 20 of the Tennessee Court of Criminal Appeals**

THOMAS T. WOODALL, J., delivered the opinion of the court, in which DAVID H. WELLES and JERRY L. SMITH, JJ., joined.

Louis P. Skufca, Jr., Clifton, Tennessee, *pro se*.

Paul G. Summers, Attorney General and Reporter; Michael Markham, Assistant Attorney General; and T. Michael Bottoms, District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

From the record, which contains a copy of the judgment attacked by Petitioner, it appears that Petitioner pled guilty to aggravated sexual battery on February 22, 2000, in the Circuit Court of McNairy County. He received a sentence of eight years as a 100% violent offender and was ordered to community supervision for life pursuant to Tennessee Code Annotated section 39-13-524. He previously filed an untimely petition for post-conviction relief, which was summarily dismissed, and that action was affirmed by this Court in an order entered pursuant to Rule 20, Rules of the Court of Criminal Appeals. *Skufca v. State*, No. W2001-02159-CCA-R3-PC, 2002 Tenn. Crim. App. LEXIS 256 (Tenn. Crim. App. at Jackson Feb. 21, 2002). In this *pro se* petition for habeas corpus relief, which incorporates several typewritten pages, along with handwritten portions of the petition, Petitioner essentially seeks relief based upon an unknowing and involuntary guilty plea, and alleges that the trial court in Hardeman County did not have jurisdiction to enter a judgment against him arising from a McNairy County indictment. We note that McNairy County and Hardeman County

are in the same judicial district. The typewritten pages appear to be from Petitioner's original petition for post-conviction relief. We have thoroughly reviewed the record, and conclude that none of the grounds raised by Petitioner, even if taken as true, are appropriate for habeas corpus relief. Recently, the Tennessee Supreme Court stated in *Hickman v. State*, _____ S.W.3d _____, No. E2002-01916-SC-R11-PC (Tenn. at Knoxville filed Sept. 22, 2004):

Habeas corpus relief is proper only if the petition establishes that the challenged judgment is void, as opposed to merely voidable. (citations omitted). A judgment is void "only when '[i]t appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered that a convicting court was without jurisdiction or authority to sentence a defendant, or that a defendant's sentence of imprisonment or other restraint has expired.'"

Hickman, slip op. at 3 (quoting *State v. Ritchie*, 20 S.W.3d 624, 630 (Tenn. 2000) (quoting *Archer v. State*, 851 S.W.2d 157, 164 (Tenn. 1993) (quoting *State v. Galloway*, 45 Tenn. (5 Cold.) 326, 336-37 (186*))))).

A trial court may properly dismiss a petition for habeas corpus relief without an evidentiary hearing when the petition fails to demonstrate, on its face, that the judgment is void. Petitioner argues in his petition that his plea agreement paperwork signed prior to entry of the plea reflects that he was pleading guilty as a standard offender, and omitted the percentage of the sentence to be served before being eligible for parole. Both of these statements are correct, based upon a copy of a plea agreement sheet included in the record. He also correctly states that the plea agreement paperwork does not include any requirement of community supervision for life. However, even if taken as true, this would only make the judgment voidable and not void on its face. The trial court correctly dismissed the petition without an evidentiary hearing.

The judgment was rendered in this matter in a proceeding before the trial court without a jury, and the judgment was not a determination of guilt, and the evidence does not preponderate against the finding of the trial court.

Upon review of this matter, this court concludes that no error of law requiring a reversal of the judgment of the trial court is apparent on the record.

CONCLUSION

Accordingly, the judgment of the trial court is affirmed.

THOMAS T. WOODALL, JUDGE